

**United States Bankruptcy Court
Central District of California
Santa Ana
Judge Erithe Smith, Presiding
Courtroom 5A Calendar**

Thursday, October 06, 2016

Hearing Room

5A

9:30 AM

8:14-10508 Aviiir, Inc.

Chapter 7

Adv#: 8:14-01064 Rothnem v. Naylor

#1.00 CON'TD STATUS CONFERENCE RE: First Amended Class Action Adversary Proceeding Complaint [Violation of Worker Adjustment and Retraining Notification Act, 29 U.S.C. §§2101 - 2109 and California Labor Code §§1400 Et Seq.]

FR: 8-7-14; 9-4-14; 11-13-14; 3-19-15; 5-5-16; 8-18-16

Docket 4

***** VACATED *** REASON: OFF CALENDAR: Stipulation of Dismissal with Prejudice filed 9/2/16; Order Dismissing Adversary Proceeding with Prejudice Entered 9/9/16**

Courtroom Deputy:

OFF CALENDAR: Stipulation of Dismissal with Prejudice filed 9/2/16; Order Dismissing Adversary Proceeding with Prejudice Entered 9/9/16 - td (9/20/2016)

Tentative Ruling:

November 13, 2014

Continue status conference to Feb, 5, 2015 at 9:30 a.m.; joint status report to be filed by January 22, 2015.

Note: If both parties accept the tentative ruling, appearances at today's hearing are not required and Plaintiff shall serve notice of the continued hearing date/time.

March 19, 2015

Discovery Cut-off Date:	Feb. 13, 2016
Deadline to Attend Mediation:	Apr. 1, 2016
Pretrial Conference Date:	May 5, 2016 at 9:30 a.m. (XX)

**United States Bankruptcy Court
Central District of California
Santa Ana
Judge Erithe Smith, Presiding
Courtroom 5A Calendar**

Thursday, October 06, 2016

Hearing Room

5A

9:30 AM

CONT... **Aviir, Inc.**

Chapter 7

Deadline to Lodge Joint Pretrial Stipulation: Apr. 21, 2016

Note: If all parties agree with the foregoing schedule, appearances at today's hearing are waived and Plaintiff shall serve/lodge a scheduling order consistent with the same.

May 5, 2016

Impose sanctions in the amount of \$100 against Plaintiff's counsel for failure to file an updated status report regarding the status of the appeal pending before the district court.

Note: Appearances at this hearing are required.

August 18, 2016

In light of progress made re pending settlement, continue status conference one final time to October 6, 2016 at 9:30 a.m.; updated status report must be filed by September 22, 2016 if the adversary has not been dismissed by such date. (XX)

Note: Appearances at this hearing are not required; Plaintiff to serve notice of the continued hearing date/time.

Party Information

Debtor(s):

Aviir, Inc.

Represented By
Stephen T O'Neill

Defendant(s):

Karen S. Naylor

Represented By
Nanette D Sanders
Raphael Cung

**United States Bankruptcy Court
Central District of California
Santa Ana
Judge Erithe Smith, Presiding
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Thursday, October 06, 2016

Hearing Room

5A

9:30 AM

CONT... Aviiir, Inc.

Chapter 7

Interested Party(s):

Courtesy NEF

Represented By
Leo D Plotkin

Plaintiff(s):

Brittany Rothnem

Represented By
Gail L Chung

Trustee(s):

Karen S Naylor (TR)

Represented By
Nanette D Sanders

Karen S Naylor (TR)

Represented By
Nanette D Sanders
Brian R Nelson
Todd C. Ringstad
Callahan & Blaine, APLC

U.S. Trustee(s):

United States Trustee (SA)

Pro Se

United States Bankruptcy Court
Central District of California
Santa Ana
Judge Erithe Smith, Presiding
Courtroom 5A Calendar

Thursday, October 06, 2016

Hearing Room

5A

9:30 AM

8:14-10508 Aviiir, Inc.

Chapter 7

Adv#: 8:16-01015 Naylor v. Apollo Couriers, Inc.

#2.00 PRE-TRIAL CONFERENCE RE: Complaint to Avoid and Recover
Preferential/Fraudulent Transfer

FR: 4-14-16

Docket 1

*** VACATED *** REASON: CONTINUED TO 12/15/16 AT 9:30 A.M.,
PER ORDER ENTERED 9/16/16 (XX)

Courtroom Deputy:

CONTINUED: Pre-trial Conference Continued to 12/15/16 at 9:30 a.m.,
Per Order Entered 9/16/16 (XX) - td (9/16/2016)

Tentative Ruling:

April 14, 2016

Discovery Cut-off Date: August 15, 2016
Pretrial Conference Date: Oct. 6, 2016 at 9:30 a.m. (XX)
Deadline to Lodge Joint Pretrial Stipulation: Sept. 22, 2016

Note: If all parties agree with the foregoing schedule, appearances at today's hearing are waived and Plaintiff shall serve/lodge a scheduling order consistent with the same.

Party Information

Debtor(s):

Aviiir, Inc.

Represented By
Stephen T O'Neill

Defendant(s):

Apollo Couriers, Inc.

Pro Se

**United States Bankruptcy Court
Central District of California
Santa Ana
Judge Erithe Smith, Presiding
Courtroom 5A Calendar**

Thursday, October 06, 2016

Hearing Room

5A

9:30 AM

CONT... Aviir, Inc.

Chapter 7

Plaintiff(s):

Karen Sue Naylor

Represented By
Nanette D Sanders

Trustee(s):

Karen S Naylor (TR)

Pro Se

Karen S Naylor (TR)

Represented By
Nanette D Sanders
Brian R Nelson
Todd C. Ringstad
Callahan & Blaine, APLC

U.S. Trustee(s):

United States Trustee (SA)

Pro Se

**United States Bankruptcy Court
Central District of California
Santa Ana
Judge Erithe Smith, Presiding
Courtroom 5A Calendar**

Thursday, October 06, 2016

Hearing Room

5A

9:30 AM

8:14-10508 **Aviir, Inc.**

Chapter 7

Adv#: 8:16-01016 Naylor v. Decton Staffing

#3.00 PRE-TRIAL CONFERENCE RE: Complaint to Avoid and Recover
Preferential/Fraudulent Transfer

FR: 4-14-16

Docket 1

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

April 14, 2016

Discovery Cut-off Date:	August 1, 2016
Deadline to Attend Mediation*:	Sept. 1, 2016
Pretrial Conference Date:	Oct. 6, 2016 at 9:30 a.m. (XX)
Deadline to Lodge Joint Pretrial Stipulation:	Sept. 22, 2016

Special Note: If Plaintiff opposes mediation, both parties must attend this status conference; Plaintiff to advise the court why she opposes mediation.

Note: If all parties agree with the foregoing schedule, appearances at today's hearing are waived and Plaintiff shall serve/lodge a scheduling order consistent with the same.

October 6, 2016

In light of the court's approval of a settlement agreement between the parties, this pretrial conference will be taken off calendar. Plaintiff to file a notice of dismissal or suspension of the adversary proceeding as appropriate under the terms of the settlement agreement.

Note: Appearances at this hearing are not required.

**United States Bankruptcy Court
Central District of California
Santa Ana
Judge Erithe Smith, Presiding
Courtroom 5A Calendar**

Thursday, October 06, 2016

Hearing Room

5A

9:30 AM

CONT...

Aviir, Inc.

Chapter 7

Party Information

Debtor(s):

Aviir, Inc.

Represented By
Stephen T O'Neill

Defendant(s):

Decton Staffing

Pro Se

Plaintiff(s):

Karen Sue Naylor

Represented By
Nanette D Sanders

Trustee(s):

Karen S Naylor (TR)

Pro Se

Karen S Naylor (TR)

Represented By
Nanette D Sanders
Brian R Nelson
Todd C. Ringstad
Callahan & Blaine, APLC

U.S. Trustee(s):

United States Trustee (SA)

Pro Se

United States Bankruptcy Court
Central District of California
Santa Ana
Judge Erithe Smith, Presiding
Courtroom 5A Calendar

Thursday, October 06, 2016

Hearing Room

5A

9:30 AM

8:15-10719 Margaret Allen Rawson

Chapter 7

Adv#: 8:15-01285 Marshack v. Rawson et al

#4.00 CON'TD STATUS CONFERENCE RE: Complaint for declaratory relief as to whether, and to what extent, assets constitute property of the estate; turnover of property of the estate; and for a temporary restraining order, and preliminary and permanent injunction

FR: 9-10-15; 4-14-16, 7-21-16

Docket 1

*** VACATED *** REASON: CONTINUED TO 12/15/16 AT 9:30 A.M.,
PER ORDER ENTERED 9/23/16 (XX)

Courtroom Deputy:

CONTINUED: Status Conference Continued to 12/15/16 at 9:30 a.m., Per Order Entered 9/23/16 (XX) - td (9/26/2016)

Tentative Ruling:

September 10, 2015

Discovery Cut-off Date: Jan. 15, 2016

Deadline to Attend Mandatory Mediation: Mar. 11, 2016

Pretrial Conference Date: Apr. 14, 2016 at 9:30
a.m. (XX)

Deadline to Lodge Joint Pretrial Stipulation: Mar. 31, 2016

Note: If all parties agree with the foregoing schedule, appearances at today's hearing are waived and Plaintiff shall serve/lodge a scheduling order consistent with the same.

Party Information

Debtor(s):

Margaret Allen Rawson

Represented By

**United States Bankruptcy Court
Central District of California
Santa Ana
Judge Erithe Smith, Presiding
Courtroom 5A Calendar**

Thursday, October 06, 2016

Hearing Room

5A

9:30 AM

CONT...

Margaret Allen Rawson

Chapter 7

Sylvia Lew

Defendant(s):

DR Rawson, Third Successor

Pro Se

Margaret Allen Rawson, Successor

Pro Se

Margaret Allen Rawson

Pro Se

Plaintiff(s):

Richard Marshack

Represented By
Misty Perry Isaacson

Trustee(s):

Richard A Marshack (TR)

Pro Se

Richard A Marshack (TR)

Pro Se

U.S. Trustee(s):

United States Trustee (SA)

Pro Se

**United States Bankruptcy Court
Central District of California
Santa Ana
Judge Erithe Smith, Presiding
Courtroom 5A Calendar**

Thursday, October 06, 2016

Hearing Room

5A

9:30 AM

8:15-11526 John William Boston

Chapter 7

Adv#: 8:15-01379 Casey v. Boston

#5.00 PRE-TRIAL CONFERENCE RE: Chapter 7 Trustee's Complaint: (1) For Judgment that the Family Court Judgment is Void Per 11 U.S.C. Section 362; (2) For Declaratory Relief; (3) For Turnover of Property of The Estate Pursuant to 11 U.S.C. Section 542; (4) For Avoidance of Unauthorized Post-Petition Transfers of Estate Property Under 11 U.S.C. Section 549; and (5) For Recovery of Transfers Per 11 U.S.C. Section 550

FR: 12-17-15; 6-30-16

Docket 1

***** VACATED *** REASON: CONTINUED TO 12/15/16 AT 9:30 A.M.,
PER ORDER ENTERED 7/27/16 (XX)**

Courtroom Deputy:

**CONTINUED: Order Approving Stipulation to Extend Discovery
Deadlines and Continue Pre-trial Conference Entered 7/27/16. Pre-trial
Conference is Continued to 12/15/16 at 9:30 a.m. (XX) - td (7/28/2016)**

Tentative Ruling:

December 17, 2015

Discovery Cut-off Date:	May 2, 2016
Pretrial Conference Date:	June 30, 2016 at 9:30
a.m.	(XX)
Deadline to Lodge Joint Pretrial Stipulation:	June 16, 2016

Note: If all parties agree with the foregoing schedule, appearances at today's hearing are waived and Plaintiff shall serve/lodge a scheduling order consistent with the same.

Party Information

**United States Bankruptcy Court
Central District of California
Santa Ana
Judge Erithe Smith, Presiding
Courtroom 5A Calendar**

Thursday, October 06, 2016

Hearing Room

5A

9:30 AM

CONT... John William Boston

Chapter 7

Debtor(s):

John William Boston

Represented By
Joseph A Weber

Defendant(s):

Alisha Boston

Pro Se

Plaintiff(s):

Thomas H Casey

Represented By
Thomas H Casey

Trustee(s):

Thomas H Casey (TR)

Represented By
Thomas H Casey

Thomas H Casey (TR)

Pro Se

U.S. Trustee(s):

United States Trustee (SA)

Pro Se

**United States Bankruptcy Court
Central District of California
Santa Ana
Judge Erithe Smith, Presiding
Courtroom 5A Calendar**

Thursday, October 06, 2016

Hearing Room

5A

9:30 AM

8:15-13261 Bruce R Fink

Chapter 13

Adv#: 8:16-01139 Fink v. Purl et al

#6.00 Hearing RE: Order to Show Cause why Adversary Proceeding Should not be Dismissed for Lack of Prosecution (OSC ISSUED 9/1/16)

Docket 10

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

October 6, 2016

Dismiss adversary proceeding. No response filed to OSC.

Party Information

Debtor(s):

Bruce R Fink	Pro Se
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Defendant(s):

Nicholai Purlinsky	Pro Se
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Ursula Purl	Pro Se
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Plaintiff(s):

Bruce R Fink	Pro Se
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Trustee(s):

Amrane (SA) Cohen (TR)	Pro Se
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**United States Bankruptcy Court
Central District of California
Santa Ana
Judge Erithe Smith, Presiding
Courtroom 5A Calendar**

Thursday, October 06, 2016

Hearing Room

5A

9:30 AM

8:15-13261 Bruce R Fink

Chapter 13

Adv#: 8:16-01139 Fink v. Purl et al

#7.00 CON'TD STATUS CONFERENCE RE: Complaint for Money

FR: 9-1-16

Docket 1

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

September 1, 2016

Impose sanctions in the amount of \$100 against Plaintiff for failing to timely file a joint status report. The court is inclined to issue an order to show cause why this adversary should not be dismissed for failure to prosecute.

Note: Appearance at this hearing is required.

October 6, 2016

Take matter off calendar in light of the dismissal of the adversary proceeding.

Party Information

Debtor(s):

Bruce R Fink	Pro Se
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Defendant(s):

Nicholai Purlinsky	Pro Se
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Ursula Purl	Pro Se
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Plaintiff(s):

Bruce R Fink	Pro Se
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**United States Bankruptcy Court
Central District of California
Santa Ana
Judge Erithe Smith, Presiding
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Thursday, October 06, 2016

Hearing Room

5A

9:30 AM

CONT... Bruce R Fink

Chapter 13

Trustee(s):

Amrane (SA) Cohen (TR)

Pro Se

U.S. Trustee(s):

United States Trustee (SA)

Pro Se

**United States Bankruptcy Court
Central District of California
Santa Ana
Judge Erithe Smith, Presiding
Courtroom 5A Calendar**

Thursday, October 06, 2016

Hearing Room

5A

9:30 AM

8:15-14580 Rosalva Ramirez

Chapter 11

Adv#: 8:15-01375 Sotelo et al v. Ramirez et al

**#8.00 PRE-TRIAL CONFERENCE RE: Notice to Federal Court of Removal of Civil
Action from State Court Pursuant to 28 U.S.C. Section 1452**

FR: 11-5-15; 12-17-15; 2-11-16; 9-1-16

Docket 1

***** VACATED *** REASON: Order Approving Stipulation to Continue
Hearing to 11/10/16 at 9:30 a.m. Entered 9/21/16 (XX)**

Courtroom Deputy:

**CONTINUED: Order Approving Stipulation to Continue Hearing to
11/10/16 at 9:30 a.m. Entered 9/21/16 (XX)- mp/td(9/21/16**

Tentative Ruling:

November 5, 2015

The court will likely issue an Order to Show Cause why it should not abstain
from adjudicating this matter per 28 USC 1334(c)(1)

December 17, 2015

Based upon the briefs filed since the last status conference, the court will not
abstain at this time. The court notes that Debtor has not served the cross-
defendants with the cross-complaint.

Note: Appearances at this hearing are required

February 11, 2016

Date to complete discovery: July 1, 2016
Pretrial Stipulation due date: August 18, 2016

**United States Bankruptcy Court
Central District of California
Santa Ana
Judge Erithe Smith, Presiding
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Thursday, October 06, 2016

Hearing Room

5A

9:30 AM

CONT... Rosalva Ramirez

Chapter 11

Pretrial Conference:

Sept. 1, 2016 at 9:30 a.m. (XX)

Note: If all parties accept the foregoing schedule, appearances at this hearing are not required and Plaintiff shall lodge a scheduling order consistent with the same.

Party Information

Debtor(s):

Rosalva Ramirez

Represented By
Marc C Forsythe

Defendant(s):

Family Steel Corporation

Pro Se

First American Title Insurance

Pro Se

Olimpia Family Trust, Dated

Pro Se

The Ramirez Family Trust

Pro Se

Rosalva Ramirez

Represented By
Marc C Forsythe

Jose Luis Ramirez Sr

Pro Se

Herman F Cea

Pro Se

Plaintiff(s):

Aurelio Vera

Represented By
Michael Soroy

Faviola Vera

Represented By
Michael Soroy

Mayanin Sotelo

Represented By
Michael Soroy

Salon Envious, Inc.

Represented By
Michael Soroy

**United States Bankruptcy Court
Central District of California
Santa Ana
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Thursday, October 06, 2016

Hearing Room

5A

9:30 AM

CONT...

Rosalva Ramirez

Chapter 11

U.S. Trustee(s):

United States Trustee (SA)

Represented By
Frank Cadigan

**United States Bankruptcy Court
Central District of California
Santa Ana
Judge Erithe Smith, Presiding
Courtroom 5A Calendar**

Thursday, October 06, 2016

Hearing Room

5A

9:30 AM

8:16-10031 Robert Carlile, Jr

Chapter 7

Adv#: 8:16-01106 R Prasad Industries v. Carlile Jr

#9.00 STATUS CONFERENCE RE: Complaint for: Nondischarge of Debt Pursuant to Sections 523 and 727 of the Bankruptcy Code

(Per 2nd Another Summons Issued 7/22/16)

Docket 1

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

October 6, 2016

In light of pending motion to dismiss, continue status conference to Dec. 15, 2016 at 9:30 a.m.; updated status report to be filed by Dec. 1, 2016.

Note: If all parties accept the foregoing tentative ruling, appearances at this hearing are not required.

Party Information

Debtor(s):

Robert Carlile Jr

Represented By
Dana M Douglas

Defendant(s):

Robert Carlile Jr

Pro Se

Plaintiff(s):

R Prasad Industries

Represented By
F Thomas Hovore

Trustee(s):

Weneta M Kosmala (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Santa Ana
Judge Erithe Smith, Presiding
Courtroom 5A Calendar**

Thursday, October 06, 2016

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9:30 AM

CONT...

Robert Carlile, Jr

Chapter 7

**United States Bankruptcy Court
Central District of California
Santa Ana
Judge Erithe Smith, Presiding
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Thursday, October 06, 2016

Hearing Room

5A

9:30 AM

8:16-11697 Ana Cristina Costello

Chapter 7

Adv#: 8:16-01173 Costello v. First Associates Loan Servicing et al

**#10.00 STATUS CONFERENCE RE: Complaint to Determine Dischargeability of
Student Loan Debts**

Docket 1

***** VACATED *** REASON: RESCHEDULED FOR NOVEMBER 3,
2016 AT 9:30 A.M. PER ANOTHER SUMMONS ISSUED ON 8/4/16**

Courtroom Deputy:

**OFF CALENDAR: Rescheduled for November 3, 2016 at 9:30 a.m. per
Another Summons Issued on 8/4/16 - (es 8-4-16)**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Ana Cristina Costello

Represented By
Leigh E Ferrin

Defendant(s):

United States Department of	Pro Se
Student CU Connect CUSO, LLC	Pro Se
Navient Solutions Inc	Pro Se
First Associates Loan Servicing	Pro Se
University Accounting Service	Pro Se

Plaintiff(s):

Ana Costello

Represented By
Leigh E Ferrin

Trustee(s):

Weneta M Kosmala (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Santa Ana
Judge Erithe Smith, Presiding
Courtroom 5A Calendar**

Thursday, October 06, 2016

Hearing Room

5A

9:30 AM

CONT...

Ana Cristina Costello

Chapter 7

United States Bankruptcy Court
Central District of California
Santa Ana
Judge Erithe Smith, Presiding
Courtroom 5A Calendar

Thursday, October 06, 2016

Hearing Room

5A

9:30 AM

8:16-11751 J & L Metal Polishing Inc.

Chapter 7

Adv#: 8:16-01176 Marshack v. J.C. Coating Solutions, Inc. et al

#11.00 STATUS CONFERENCE RE: Complaint to Avoid Fraudulent Transfer; Alter Ego

Docket 1

***** VACATED *** REASON: CONTINUED TO 10/20/16 AT 9:30 A.M.,
PER ORDER ENTERED 10/4/16 (XX)**

Courtroom Deputy:

**CONTINUED: Order on Ex Parte Application to Continue Status
Conference Entered 10/4/16; Status Conference is Continued to 10/20/16
at 9:30 a.m. (XX) - td (10/4/2016)**

Tentative Ruling:

October 6, 2016

Continue status conference to October 20, 2016 at 9:30 a.m.; joint status
report must be filed by October 6, 2016.

***Note: If all parties accept the foregoing tentative ruling, appearances at
this hearing are not required.***

Party Information

Debtor(s):

J & L Metal Polishing Inc.

Represented By
William Radcliffe

Defendant(s):

Cesar Soto

Pro Se

Julian Navarro

Pro Se

J.C. Coating Solutions, Inc.

Pro Se

Rigoberto Navarro

Pro Se

**United States Bankruptcy Court
Central District of California
Santa Ana
Judge Erithe Smith, Presiding
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Thursday, October 06, 2016

Hearing Room

5A

9:30 AM

CONT... J & L Metal Polishing Inc.

Chapter 7

Plaintiff(s):

Richard A Marshack

Represented By
Donald W Sieveke

Trustee(s):

Richard A Marshack (TR)

Represented By
Donald W Sieveke

**United States Bankruptcy Court
Central District of California
Santa Ana
Judge Erithe Smith, Presiding
Courtroom 5A Calendar**

Thursday, October 06, 2016

Hearing Room

5A

10:00 AM

8:15-15492 William Michael Heidelman

Chapter 13

#12.00 Hearing RE: Motion for relief from the automatic stay [REAL PROPERTY]

WELLS FARGO BANK, N.A.

VS.

DEBTOR

Docket 36

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

October 6, 2016

Grant with 4001(a)(3) waiver and co-debtor relief.

Note: This matter appears to be uncontested. Accordingly, no court appearance by the Movant is required. Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required and Movant will be so notified.

Party Information

Debtor(s):

William Michael Heidelman

Represented By
Steven A Alpert

Movant(s):

Wells Fargo Bank,N.A.

Represented By
Gilbert R Yabes
Rosemary Allen

**United States Bankruptcy Court
Central District of California
Santa Ana
Judge Erithe Smith, Presiding
Courtroom 5A Calendar**

Thursday, October 06, 2016

Hearing Room

5A

10:00 AM

CONT... William Michael Heidelman

Chapter 13

Trustee(s):

Amrane (SA) Cohen (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Santa Ana
Judge Erithe Smith, Presiding
Courtroom 5A Calendar**

Thursday, October 06, 2016

Hearing Room

5A

10:00 AM

8:16-10473 Hussam Fayiz Darwish

Chapter 13

#13.00 Hearing RE: Motion for relief from the automatic stay [REAL PROPERTY]

NATIONSTAR MORTGAGE LLC

VS.

DEBTOR; AND AMRANE COHEN, CHAPTER 13 TRUSTEE

Docket 75

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

October 6, 2016

Grant with 4001(a)(3) waiver and co-debtor relief.

Note: This matter appears to be uncontested. Accordingly, no court appearance by the Movant is required. Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required and Movant will be so notified.

Party Information

Debtor(s):

Hussam Fayiz Darwish

Represented By
Bruce D White
Bruce D White

Movant(s):

Nationstar Mortgage LLC as

Represented By
Kristin A Zilberstein

**United States Bankruptcy Court
Central District of California
Santa Ana
Judge Erithe Smith, Presiding
Courtroom 5A Calendar**

Thursday, October 06, 2016

Hearing Room

5A

10:00 AM

CONT... Hussam Fayiz Darwish

Chapter 13

Trustee(s):

Amrane (SA) Cohen (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Santa Ana
Judge Erithe Smith, Presiding
Courtroom 5A Calendar

Thursday, October 06, 2016

Hearing Room

5A

10:00 AM

8:16-11509 Koichi Motegi

Chapter 13

#14.00 Hearing RE: Motion for relief from the automatic stay [REAL PROPERTY]

WELLS FARGO BANK, N.A.

VS.

DEBTOR

Docket 31

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

October 6, 2016

Grant with 4001(a)(3) waiver and co-debtor relief.

Note: This matter appears to be uncontested. Accordingly, no court appearance by the Movant is required. Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required and Movant will be so notified.

Party Information

Debtor(s):

Koichi Motegi

Represented By

Steven L Bryson

Steven L Bryson

Steven L Bryson

Steven L Bryson

Movant(s):

WELLS FARGO BANK, N.A.

Represented By

Gilbert R Yabes

**United States Bankruptcy Court
Central District of California
Santa Ana
Judge Erithe Smith, Presiding
Courtroom 5A Calendar**

Thursday, October 06, 2016

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5A

10:00 AM

CONT... Koichi Motegi

Chapter 13

Trustee(s):

Amrane (SA) Cohen (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Santa Ana
Judge Erithe Smith, Presiding
Courtroom 5A Calendar**

Thursday, October 06, 2016

Hearing Room

5A

10:00 AM

8:16-13257 Wilbert Espindola

Chapter 7

#15.00 Hearing RE: Motion for relief from the automatic stay [REAL PROPERTY]

WELLS FARGO BANK, N.A.

VS.

DEBTOR

Docket 10

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

October 6, 2016

Grant motion with all relief requested. However, the court makes no finding of bad faith on the part of the Debtor.

It does not appear that the Debtor participated in the transfer of the property or in the preparation of the Grant Deed.

Party Information

Debtor(s):

Wilbert Espindola

Pro Se

Movant(s):

Wells Fargo Bank, N.A.

Represented By
Kristin A Zilberstein

Trustee(s):

Karen S Naylor (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Santa Ana
Judge Erithe Smith, Presiding
Courtroom 5A Calendar**

Thursday, October 06, 2016

Hearing Room 5A

10:00 AM

8:16-13809 Alphasonic, Inc.

Chapter 7

#16.00 Hearing RE: Motion for relief from the automatic stay or for Order Confirming
that the Automatic Stay Does Not Apply Under 11 U.S.C. §362(i)
[UNLAWFUL DETAINER]

BUI INVESTMENTS, LLC

VS.

DEBTOR

Docket 7

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

October 6, 2016

Continue hearing to Nov. 3, 2016 at 10:00 a.m. to allow Movant to correct service issue: Debtor, a corporate entity, was not served in accordance with FRBP 7004(b)(3) as required by FRBP 9014 for contested matters. In addition, Debtor has retained an attorney and the attorney needs to be served as well.

Tentative Ruling for 11/3/16 hearing (if unopposed): Grant with 4001(a)(3) waiver and 180-day prospective relief as to Debtor; deny all other extraordinary relief requested.

Note: If Movant accepts the foregoing tentative ruling, appearance at this hearing is not required.

Party Information

Debtor(s):

Alphasonic, Inc.

Pro Se

**United States Bankruptcy Court
Central District of California
Santa Ana
Judge Erithe Smith, Presiding
Courtroom 5A Calendar**

Thursday, October 06, 2016

Hearing Room

5A

10:00 AM

CONT... Alphasonic, Inc.

Chapter 7

Movant(s):

BUI Investments, LLC

Represented By
Alberto J Campain

Trustee(s):

Karen S Naylor (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Santa Ana
Judge Erithe Smith, Presiding
Courtroom 5A Calendar**

Thursday, October 06, 2016

Hearing Room

5A

10:00 AM

8:16-13874 Hector Nieto-Villicana

Chapter 13

#17.00 Hearing RE: Motion in Individual Case for Order Imposing a Stay or Continuing the Automatic Stay as the Court Deems Appropriate

Docket 7

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

October 6, 2016

Deny motion due to insufficient grounds stated therefor re good faith and eligibility.

According to Debtor's schedule I, he has no income to support a plan and therefore cannot satisfy the good faith requirement of 362(c)(3). In addition, having no regular income, Debtor is not eligible to be in chapter 13 per 109 (e).

Party Information

Debtor(s):

Hector Nieto-Villicana

Represented By

Luis G Torres

Luis G Torres

Luis G Torres

Luis G Torres

Trustee(s):

Amrane (SA) Cohen (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Santa Ana
Judge Erithe Smith, Presiding
Courtroom 5A Calendar**

Thursday, October 06, 2016

Hearing Room

5A

10:30 AM

8:11-20198 John C. Mondt and Bridget R. Mondt

Chapter 13

#18.00 Hearing RE: Debtors' Objection to Claim #17 of Nexus Owners Association (\$14,372.67)

Docket 96

***** VACATED *** REASON: OFF CALENDAR: Debtor's Voluntary Dismissal of Objection to Claim of Nexus Owner Association filed 9/13/2016**

Courtroom Deputy:

OFF CALENDAR: Debtor's Voluntary Dismissal of Objection to Claim of Nexus Owner Association filed 9/13/2016 - td (9/15/2016)

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

John C. Mondt

Represented By
Don E Somerville
Tate C Casey

Joint Debtor(s):

Bridget R. Mondt

Represented By
Don E Somerville
Tate C Casey

Trustee(s):

Amrane (SA) Cohen (TR)

Represented By
Amrane (SA) Cohen (TR)

**United States Bankruptcy Court
Central District of California
Santa Ana
Judge Erithe Smith, Presiding
Courtroom 5A Calendar**

Thursday, October 06, 2016

Hearing Room

5A

10:30 AM

8:13-10331 Paul A Robbins

Chapter 7

#19.00 Hearing Show Cause hearing why Nationstar Mortgage, LLC Should not be Adjudged in Contempt of Court for Violating the Permanent Injunction of 11 U.S.C. Section 524 (OSC Issued 9/12/16)

Docket 17

***** VACATED *** REASON: CONTINUED TO 10/20/16 AT 10:30 A.M.,
PER ORDER ENTERED 9/22/16 (XX)**

Courtroom Deputy:

**CONTINUED: Order on Ex Parte Application to Continue Hearing on
Order to Show Cause Entered 9/22/16. Hearing is Continued to 10/20/16
at 10:30 a.m. (XX) - td (9/22/2016)**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Paul A Robbins

Represented By
Donald W Sieveke

Trustee(s):

Thomas H Casey (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Santa Ana
Judge Erithe Smith, Presiding
Courtroom 5A Calendar**

Thursday, October 06, 2016

Hearing Room

5A

10:30 AM

8:13-12343 Ambrosio Ponce and Lilia Ponce

Chapter 7

#20.00 Hearing RE: Debtors' Motion to Avoid Non-Possessory Involuntary Lien

Docket 36

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

October 6, 2016

Deny motion without prejudice.

Basis for Tentative Ruling

1. Service: The affected creditors were not served in accordance with FRBP 7004(b)(3) as required by FRBP 9014 for contested matters such as this. Service to the creditors' attorneys alone is insufficient.
2. LBR 4003-2(b): Local Bankruptcy Rule (LBR) 4003-2(b) requires that a separate motion and notice be filed for each lien to be avoided. Here, Debtors have filed a single motion for two different creditors.
3. Exemption: In the Motion, Debtor asserts an exemption under CCP 704.710; however, their Schedule C cites CCP 703.140(b)(1). Exh. E

Note: If Movants accept the foregoing tentative ruling, appearances at this hearing are not required.

Party Information

Debtor(s):

Ambrosio Ponce

Represented By
Randy Alexander
Steven M Gluck

**United States Bankruptcy Court
Central District of California
Santa Ana
Judge Erithe Smith, Presiding
Courtroom 5A Calendar**

Thursday, October 06, 2016

Hearing Room

5A

10:30 AM

CONT... Ambrosio Ponce and Lilia Ponce

Chapter 7

Joint Debtor(s):

Lilia Ponce

Represented By
Randy Alexander
Randy Alexander

Trustee(s):

Weneta M Kosmala (TR)

Represented By
Weneta M Kosmala (TR)

**United States Bankruptcy Court
Central District of California
Santa Ana
Judge Erithe Smith, Presiding
Courtroom 5A Calendar**

Thursday, October 06, 2016

Hearing Room

5A

10:30 AM

8:13-15717 Alexander G. Montano

Chapter 7

#21.00 Hearing RE: Trustee's Final Report and Application for Compensation and Reimbursement of Expenses

[WENETA M.A. KOSMALA, CHAPTER 7 TRUSTEE]

Docket 112

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

October 6, 2016

Approve fees and expenses as requested.

Note: This matter appears to be uncontested. Accordingly, no court appearance by Applicant is required. Should an opposition party file a late opposition or appear at the hearing, the court will determine whether further hearing is required and Applicant will be so notified.

Party Information

Debtor(s):

Alexander G. Montano

Represented By
Thomas J Polis

Trustee(s):

Weneta M Kosmala (TR)

Represented By
Reem J Bello

United States Bankruptcy Court
Central District of California
Santa Ana
Judge Erithe Smith, Presiding
Courtroom 5A Calendar

Thursday, October 06, 2016

Hearing Room

5A

10:30 AM

8:13-15717 Alexander G. Montano

Chapter 7

#22.00 Hearing RE: First and Final Application for Allowance and Payment of Fees and Reimbursement of Expenses

[LOBEL WEILAND GOLDEN FRIEDMAN LLP, COUNSEL FOR THE TRUSTEE]

Docket 111

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

October 6, 2016

Approve fees and expenses as requested.

Note: This matter appears to be uncontested. Accordingly, no court appearance by Applicant is required. Should an opposition party file a late opposition or appear at the hearing, the court will determine whether further hearing is required and Applicant will be so notified.

Party Information

Debtor(s):

Alexander G. Montano

Represented By
Thomas J Polis

Trustee(s):

Weneta M Kosmala (TR)

Represented By
Reem J Bello

United States Bankruptcy Court
Central District of California
Santa Ana
Judge Erithe Smith, Presiding
Courtroom 5A Calendar

Thursday, October 06, 2016

Hearing Room 5A

10:30 AM

8:13-15717 Alexander G. Montano

Chapter 7

#23.00 Hearing RE: First and Final Application for Allowance and Payment of Fees and Reimbursement of Expenses

[WEILAND GOLDEN SMILEY & WANG EKVALL LLP, FORMER COUNSEL FOR THE TRUSTEE]

Docket 110

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

October 6, 2016

Approve fees and expenses as requested.

Note: This matter appears to be uncontested. Accordingly, no court appearance by Applicant is required. Should an opposition party file a late opposition or appear at the hearing, the court will determine whether further hearing is required and Applicant will be so notified.

Party Information

Debtor(s):

Alexander G. Montano

Represented By
Thomas J Polis

Trustee(s):

Weneta M Kosmala (TR)

Represented By
Reem J Bello

**United States Bankruptcy Court
Central District of California
Santa Ana
Judge Erithe Smith, Presiding
Courtroom 5A Calendar**

Thursday, October 06, 2016

Hearing Room 5A

10:30 AM

8:13-17920 Donald Woo Lee and Linda Bae Lee

Chapter 7

#24.00 Hearing RE: Debtors' Motion for Order Dismissing Chapter 7 Bankruptcy Case

Docket 670

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

October 6, 2016

Deny motion.

Basis for Tentative Ruling:

The court incorporates and adopts the reasoning and analysis set forth in the Opposition filed by the Trustee and incorporates the same herein as its findings of fact and conclusions of law. The Reply filed by Debtors, including the self-serving unsubstantiated statements of Debtor Donald Lee in his declaration attached thereto are entirely unpersuasive to the court. Further, it is apparent that Debtors are less concerned with prejudice to creditors occasioned by the Trustee's reasonable and statutorily supported prosecution of claims (many caused by Mr. Lee himself due to his postpetition conduct and concealment of assets) than they are about future liability to creditors once the case has concluded. Indeed, the litany of (at best) questionable conduct by Mr. Lee outlined in the Opposition, coupled with Mr. Lee's pending federal indictment, strongly support the continued administration of this case as an open chapter 7 case.

In sum, Debtors have failed to provide persuasive evidence that the dismissal of the case will not result in legal prejudice to creditors and, therefore, have not met their burden of proof as to the Motion.

**United States Bankruptcy Court
Central District of California
Santa Ana
Judge Erithe Smith, Presiding
Courtroom 5A Calendar**

Thursday, October 06, 2016

Hearing Room

5A

10:30 AM

CONT... Donald Woo Lee and Linda Bae Lee

Chapter 7

Party Information

Debtor(s):

Donald Woo Lee

Represented By
Robert B Rosenstein

Joint Debtor(s):

Linda Bae Lee

Represented By
Robert B Rosenstein

Trustee(s):

Richard A Marshack (TR)

Represented By
Kyra E Andrassy
David Wood
Matthew Grimshaw
Nathan F Smith
Arturo M Cisneros
Norma Ann Dawson
Robert S Lawrence
Caroline Djang

United States Bankruptcy Court
Central District of California
Santa Ana
Judge Erithe Smith, Presiding
Courtroom 5A Calendar

Thursday, October 06, 2016

Hearing Room

5A

10:30 AM

8:14-10508 **Aviir, Inc.**

Chapter 7

Adv#: 8:16-01016 Naylor v. Decton Staffing

#25.00 CON'TD Hearing RE: Plaintiff's Motion to Extend Deadline to Complete
Discovery for Purposes of Filing a Motion to Compel

FR: 9-6-16

Docket 12

***** VACATED *** REASON: OFF CALENDAR: Notice of Withdrawal
of Motion filed 9/29/16**

Courtroom Deputy:

**OFF CALENDAR: Notice of Withdrawal of Motion filed 9/29/16 - td
(9/29/2016)**

Tentative Ruling:

September 6, 2016

Grant motion. Continue pretrial conference from October 6, 2016 at 9:30
a.m. to January 19, 2017 at 9:30 a.m.; joint pretrial stipulation must be filed by
January 5, 2017.

***Note: This matter appears to be uncontested. Accordingly, no court
appearance by the Movant is required. Should an opposing party file a
late opposition or appear at the hearing, the court will determine
whether further hearing is required and Movant will be so notified.***

Party Information

Debtor(s):

Aviir, Inc.

Represented By
Stephen T O'Neill

**United States Bankruptcy Court
Central District of California
Santa Ana
Judge Erithe Smith, Presiding
Courtroom 5A Calendar**

Thursday, October 06, 2016

Hearing Room

5A

10:30 AM

CONT... Aviir, Inc.

Chapter 7

Defendant(s):

Decton Staffing

Represented By
Thomas J Polis

Plaintiff(s):

Karen Sue Naylor

Represented By
Nanette D Sanders
Brian R Nelson

Trustee(s):

Karen S Naylor (TR)

Represented By
Nanette D Sanders
Brian R Nelson
Todd C. Ringstad
Callahan & Blaine, APLC

**United States Bankruptcy Court
Central District of California
Santa Ana
Judge Erithe Smith, Presiding
Courtroom 5A Calendar**

Thursday, October 06, 2016

Hearing Room

5A

10:30 AM

8:14-11492 The Tulving Company Inc

Chapter 7

#26.00 Hearing RE: Motion For Order Authorizing The Trustee To (I) Retain GreatCollections.Com D/B/A Great Collections As Auctioneer, (Ii) Modify, In Part, Asset Distribution Plan, And (Iii) Set New Opt-Out Deadline For Creditors To Determine Whether To Receive Error Coins In Partial Payment Of Their Claims And Sell Coins Not Distributed To Creditors Free And Clear Of Liens, Claims And Interests

Docket 623

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

October 6, 2016

Grant motion.

Note: This matter appears to be uncontested. Accordingly, no court appearance by the Movant is required. Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required and Movant will be so notified.

Party Information

Debtor(s):

The Tulving Company Inc

Pro Se

Movant(s):

Weneta M Kosmala (TR)

Represented By
Linda F Cantor ESQ

Trustee(s):

Weneta M Kosmala (TR)

Represented By
Linda F Cantor ESQ

**United States Bankruptcy Court
Central District of California
Santa Ana
Judge Erithe Smith, Presiding
Courtroom 5A Calendar**

Thursday, October 06, 2016

Hearing Room

5A

10:30 AM

8:15-11837 Alvaro Tarin

Chapter 7

#27.00 Hearing RE: Trustee's Final Report and Application for Compensation and Reimbursement of Expenses

[RICHARD A. MARSHACK, CHAPTER 7 TRUSTEE]

Docket 50

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

October 6, 2016

Approve fees and expenses as requested.

Note: This matter appears to be uncontested. Accordingly, no court appearance by Applicant is required. Should an opposition party file a late opposition or appear at the hearing, the court will determine whether further hearing is required and Applicant will be so notified.

Party Information

Debtor(s):

Alvaro Tarin

Represented By
Roya Rohani

Trustee(s):

Richard A Marshack (TR)

Represented By
D Edward Hays
Ashley M Teesdale

United States Bankruptcy Court
Central District of California
Santa Ana
Judge Erithe Smith, Presiding
Courtroom 5A Calendar

Thursday, October 06, 2016

Hearing Room

5A

10:30 AM

8:15-11837 Alvaro Tarin

Chapter 7

#28.00 Hearing RE: First and Final Application for Allowance of Fees and Costs

**[MARSHACK HAYS LLP AS GENERAL COUNSEL FOR RICHARD A.
MARSHACK, CHAPTER 7 TRUSTEE]**

Docket 49

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

October 6, 2016

Approve fees and expenses as requested.

Note: This matter appears to be uncontested. Accordingly, no court appearance by Applicant is required. Should an opposition party file a late opposition or appear at the hearing, the court will determine whether further hearing is required and Applicant will be so notified.

Party Information

Debtor(s):

Alvaro Tarin

Represented By
Roya Rohani

Trustee(s):

Richard A Marshack (TR)

Represented By
D Edward Hays
Ashley M Teesdale

**United States Bankruptcy Court
Central District of California
Santa Ana
Judge Erithe Smith, Presiding
Courtroom 5A Calendar**

Thursday, October 06, 2016

Hearing Room

5A

10:30 AM

8:15-12308 Ivan Kassoff

Chapter 7

#29.00 Hearing RE: Trustee's Final Report and Application for Compensation and Reimbursement of Expenses

[WENETA M.A. KOSMALA, CHAPTER 7 TRUSTEE]

Docket 73

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

October 6, 2016

Approve fees and expenses as requested.

Note: This matter appears to be uncontested. Accordingly, no court appearance by Applicant is required. Should an opposition party file a late opposition or appear at the hearing, the court will determine whether further hearing is required and Applicant will be so notified.

Party Information

Debtor(s):

Ivan Kassoff

Represented By
Amid Bahadori

Trustee(s):

Weneta M Kosmala (TR)

Represented By
Reem J Bello

**United States Bankruptcy Court
Central District of California
Santa Ana
Judge Erithe Smith, Presiding
Courtroom 5A Calendar**

Thursday, October 06, 2016

Hearing Room

5A

10:30 AM

8:15-12308 Ivan Kassoff

Chapter 7

#30.00 Hearing RE: First and Final Application for Allowance and Payment of Fees and Reimbursement of Expenses

**[LOBEL WEILAND GOLDEN FRIEDMAN LLP, ATTORNEYS FOR
CHAPTER 7 TRUSTEE]**

Docket 70

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

October 6, 2016

Approve fees and expenses as requested.

Note: This matter appears to be uncontested. Accordingly, no court appearance by Applicant is required. Should an opposition party file a late opposition or appear at the hearing, the court will determine whether further hearing is required and Applicant will be so notified.

Party Information

Debtor(s):

Ivan Kassoff

Represented By
Amid Bahadori

Trustee(s):

Weneta M Kosmala (TR)

Represented By
Reem J Bello

**United States Bankruptcy Court
Central District of California
Santa Ana
Judge Erithe Smith, Presiding
Courtroom 5A Calendar**

Thursday, October 06, 2016

Hearing Room

5A

10:30 AM

8:15-14905 Shari Elias

Chapter 13

#31.00 Hearing RE: Debtor's Objection to Claim Number 8 by Claimant eCAST Settlement Corporation.

Docket 25

Courtroom Deputy:

Tentative Ruling:

October 6, 2016

Overrule Objection.

Overrule objection based on opposition filed by Claimant asserting compliance with FRBP 3001(c)(3). For analysis of 3001(c)(3) re assigned claims, see *In re Crutchfield*, 492 B.R. 60 (Bankr. M.D. GA 2013). Debtor has failed to present evidence sufficient to overcome the presumed validity of the proof of claim.

Party Information

Debtor(s):

Shari Elias

Represented By
Michael Jones
Sara Tidd

Movant(s):

Shari Elias

Represented By
Michael Jones
Sara Tidd

Trustee(s):

Amrane (SA) Cohen (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Santa Ana
Judge Erithe Smith, Presiding
Courtroom 5A Calendar**

Thursday, October 06, 2016

Hearing Room

5A

10:30 AM

8:15-14905 Shari Elias

Chapter 13

#32.00 Hearing RE: Debtor's Objection to Claim Number 9 by Claimant eCAST
Settlement Corporation

Docket 27

Courtroom Deputy:

Tentative Ruling:

October 6, 2016

Overrule Objection.

Overrule objection based on opposition filed by Claimant asserting compliance with FRBP 3001(c)(3). For analysis of 3001(c)(3) re assigned claims, see *In re Crutchfield*, 492 B.R. 60 (Bankr. M.D. GA 2013). Debtor has failed to present evidence sufficient to overcome the presumed validity of the proof of claim.

Party Information

Debtor(s):

Shari Elias

Represented By
Michael Jones
Sara Tidd

Movant(s):

Shari Elias

Represented By
Michael Jones
Sara Tidd

Trustee(s):

Amrane (SA) Cohen (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Santa Ana
Judge Erithe Smith, Presiding
Courtroom 5A Calendar**

Thursday, October 06, 2016

Hearing Room

5A

10:30 AM

8:15-14905 Shari Elias

Chapter 13

#33.00 Hearing RE: Debtor's Objection to Claim Number 12 by Claimant Portfolio Recovery Associates, LLC

Docket 29

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

October 6, 2016

Overrule Objection.

Overrule objection based Claimant's compliance with FRBP 3001(c)(3). For analysis of 3001(c)(3) re assigned claims, see *In re Crutchfield*, 492 B.R. 60 (Bankr. M.D. GA 2013). Debtor has failed to present evidence sufficient to overcome the presumed validity of the proof of claim.

Party Information

Debtor(s):

Shari Elias

Represented By
Michael Jones
Sara Tidd

Movant(s):

Shari Elias

Represented By
Michael Jones
Sara Tidd

Trustee(s):

Amrane (SA) Cohen (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Santa Ana
Judge Erithe Smith, Presiding
Courtroom 5A Calendar**

Thursday, October 06, 2016

Hearing Room

5A

10:30 AM

8:15-14905 Shari Elias

Chapter 13

#34.00 Hearing RE: Debtor's Objection to Claim Number 13 by Claimant Cerastes, LLC

Docket 31

***** VACATED *** REASON: Withdrawal of Debtor's objection to Claim #13 filed 9/23/16 docket #50.**

Courtroom Deputy:

OFF CALENDAR: Withdrawl of Debtor's Objection to Claim #13 filed 9/23/16 docket #50 - adm (9/27/2016)

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Shari Elias

Represented By
Michael Jones
Sara Tidd

Movant(s):

Shari Elias

Represented By
Michael Jones
Sara Tidd

Trustee(s):

Amrane (SA) Cohen (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Santa Ana
Judge Erithe Smith, Presiding
Courtroom 5A Calendar**

Thursday, October 06, 2016

Hearing Room 5A

10:30 AM

8:15-14905 Shari Elias

Chapter 13

#35.00 Hearing RE: Debtor's Objection to Claim Number 14 by Claimant Cerastes, LLC

Docket 33

***** VACATED *** REASON: WITHDRAWAL OF DEBTOR'S
OBJECTION TO CLAIM #13 FILED 9/23/16 docket #51.**

Courtroom Deputy:

**Off Calendar: Withdrawal of Debtor's Objection to Claim #13 filed 9/23/16
docket #51 - adm (9/27/16)**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Shari Elias

Represented By
Michael Jones
Sara Tidd

Movant(s):

Shari Elias

Represented By
Michael Jones
Sara Tidd

Trustee(s):

Amrane (SA) Cohen (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Santa Ana
Judge Erithe Smith, Presiding
Courtroom 5A Calendar**

Thursday, October 06, 2016

Hearing Room

5A

10:30 AM

8:15-14997 Romeo Torrecampo Tariman

Chapter 13

#36.00 Hearing RE: Debtor's Motion Objecting to the Proof of Claim filed by PROD, LLC its Successors and Assigns as Assignee of Citibank (South Dakota), N.A.'s as Claim #4 on Court's Claim Register (\$7,978.66)

Docket 25

***** VACATED *** REASON: NOTICE OF WITHDRAWAL OF
DEBTOR'S MOTION FILED 9/23/16**

Courtroom Deputy:

**OFF CALENDAR: Notice of Withdrawal of Debtor's Motion, filed 9/23/16 -
td (9/27/2016)**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Romeo Torrecampo Tariman

Represented By

Jaime G Monteclaro

Jaime G Monteclaro

Trustee(s):

Amrane (SA) Cohen (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Santa Ana
Judge Erithe Smith, Presiding
Courtroom 5A Calendar**

Thursday, October 06, 2016

Hearing Room

5A

10:30 AM

8:16-13146 Kevin Richard Carr

Chapter 13

#37.00 Hearing RE: Debtor's Motion RE: Objection to Claim of Shuff Law Firm, A Professional Law Corporation (Claim No. 2) / \$40,000.00

Docket 15

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

October 6, 2016

Continue hearing to November 3, 2016 at 9:30 a.m. to allow Debtor to correct service issue: Claimant, a professional corporation, was not served per FRBP 7004(b)(3) as required by FRBP 9014 for contested matters such as this.

Tentative Ruling for 11/3/16 hearing (if unopposed): Sustain objection

Special note: For counsel's future reference, LBR 3007-1(c)(2) requires a declaration confirming that the attached proof of claim is a true and correct copy.

Note: If Debtor accepts the foregoing tentative ruling, appearance at this hearing is not required.

Party Information

Debtor(s):

Kevin Richard Carr

Represented By
Richard G Heston

Trustee(s):

Amrane (SA) Cohen (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Santa Ana
Judge Erithe Smith, Presiding
Courtroom 5A Calendar**

Thursday, October 06, 2016

Hearing Room

5A

2:00 PM

8:06-10373 Jay Johnson

Chapter 7

Adv#: 8:06-01312 Johnson et al v. Lapides et al

#38.00 Hearing RE: Defendant's Motion for Judgment on the Pleadings

(Advanced from 1-19-17)

Docket 30

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

October 6, 2016

Grant motion in its entirety without leave to amend.

Basis for Tentative Ruling:

1. Judgment on the pleadings pursuant to FRCP 12(c) is appropriate when, taking all of the allegations in the nonmoving party's pleadings as true, the moving party is entitled to judgement as a matter of law. *Ventress v. Japan Airlines*, 586 F.3d 1111, 1114 (9th Cir. 2007). Rule 12(c) is functionally equivalent to FRCP 12(b)(6) and the same standard of proof applies. *Cafasso, US ex rel. v. Gen. Dynamics Cr Sys., Inc.*, 637 F.3d 1047 (9th Cir. 2011).

2. First Claim for Relief - Declaratory Relief ("First Claim"): Plaintiffs concede the First Claim is moot. Opposition at 1. Accordingly, no further discussion of the First Claim is required.

3. Second Claim for Relief - Violation of Discharge Injunction ("Second Claim")

The law of this Circuit is that an alleged violation of the discharge injunction provisions of 524 is remedied through the bankruptcy court's

**United States Bankruptcy Court
Central District of California
Santa Ana
Judge Erithe Smith, Presiding
Courtroom 5A Calendar**

Thursday, October 06, 2016

Hearing Room

5A

2:00 PM

CONT...

Jay Johnson

Chapter 7

contempt powers and that there is no private right of action. *Walls v. Wells Fargo Bank, N.A.*, 276 F.3d 502, 506–07 (9th Cir.2002). The 9th Circuit later explained the ramifications of *Walls* in *Barrientos v. Wells Fargo*, 633 F.3d 1186, 1189-90 (9th Cir. 2011):

"Bankruptcy Rule 9020 provides that Bankruptcy Rule 9014 governs contempt proceedings in bankruptcy. Fed. R. Bankr.P. 9020 ("Rule 9014 g overns a motion for an order of contempt made by the United States trustee or a party in interest."). Bankruptcy Rule 9014 in turn is the rule that governs contested matters. See Fed. R. Bankr.P. 9014(a). In other words, a contempt proceeding by the United States trustee or a party in interest in bankruptcy is a contested matter. (Id.; Fed. R. Bankr.P. 9020; see 10 Collier on Bankruptcy ¶ 9020.02 (Alan N. Resnick & Henry J. Sommer eds., 15th ed. rev. 2007)). Bankruptcy Rule 9014 adopts many procedures from Part VII of the Bankruptcy Rules (which governs adversary proceedings), but not all such procedures. See Fed. R. Bankr.P. 9014(c)."

"Contested matter" in the bankruptcy context is a term of art. There is a distinction among "contested matters," "adversary proceedings," and "administrative matters." See 10 Collier on Bankruptcy ¶ 9014.01 (Alan N. Resnick & Henry J. Sommer eds., 15th ed. rev. 2007). Administrative matters are those issues that are not contested, such as unopposed motions. Id. Adversary proceedings are a species of contested matters governed by Part VII of the Bankruptcy Rules. Id. A matter qualifies as an "adversary proceeding," as opposed to a "contested matter," if it is included in the list given in Bankruptcy Rule 7001. Id.; see Fed. R. Bankr.P. 7001. Otherwise, it is a "contested matter." See *1190 Fed. R. Bankr.P. 9014(a). Contempt proceedings are not listed under Bankruptcy Rule 7001, see Fed. R. Bankr.P. 7001, and are therefore contested matters not qualifying as adversary proceedings."

Based upon the binding authority of *Wells* and *Barrientos*, the claim for discharge injunction violation under 524 was improperly filed as an adversary proceeding.

4. Plaintiffs' Argument that the Second Claim Should be Deemed One for

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Civil Extortion and Intentional Infliction of Emotional Distress is Not
Persuasive or Jurisdictionally Sustainable

Seeming to concede that the Second Claim was improperly filed as an adversary proceeding, Plaintiffs argue that the court should deem it to separate claims for Civil Extortion and Intentional Infliction of Emotional Distress. Notably, the Complaint does not expressly assert claims for either alternative claim. However, this infirmity could be resolved by amendment --- IF there was a basis for this court's jurisdiction as to either of the alternative claims. There is not. This Court lacks subject matter jurisdiction over the alternative claims because they do not fall within the ambit of "related to" jurisdiction. *Torres v. Chase Bank USA, N.A. (In re Torres)*, 367 B.R. 478, 481 (Bankr.S.D.N.Y.2007). A claim is "related to" a bankruptcy case when the outcome of the claim would have a "conceivable effect" on the administration of the bankruptcy estate. *Pacor, Inc. v. Higgins*, 743 F.2d 984, 994 (3d Cir.1984), overruled on other grounds by *Things Remembered v. Petrarca*, 516 U.S. 124, 116 S.Ct. 494, 133 L.Ed.2d 461 (1995); *Publicker Indus., Inc. v. United States (In re Cuyahoga Equip. Corp.)*, 980 F.2d 110, 114 (2d Cir.1992); see also *Fernicola v. General Motors Acceptance Corp.*, Case No. 5:01-CV-1385, 2002 WL 34343744. *2, 2002 U.S. Dist. LEXIS 25164, at *8 (N.D.N.Y. Dec. 12, 2002) ("related to" jurisdiction was lacking because the outcome of claims brought under the Truth in Lending Act, the FCRA, and the Fair Debt Collection Practices *739 Act ("FDCPA") would not have conceivable effect on bankruptcy estate). Here, Plaintiffs have received their discharge and . any damages received in this action will inure solely to their benefit. Because the outcome of the alternative claims will not affect the administration of the underlying bankruptcy estate, the claims do not fall within the parameters of "related to" jurisdiction.

5. Third Claim for Relief - Punitive Damages ("Third Claim")

Contrary to the position asserted by Movants, if a bankruptcy court finds that a party has willfully violated the discharge injunction, the court may award actual damages, punitive damages and attorney's fees to the debtor. *Espinosa v. United Student Aid Funds, Inc.*, 553 F.3d 1193, 1205 n. 7 (9th Cir.2008), aff'd — U.S. —, 130 S.Ct. 1367, 176 L.Ed.2d 158 (2010). However, as previously noted, the Second Claim relating to an alleged 524

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injunction violation has been improperly presented. The Third Claim is directly derived from the Second Claim and, as such, cannot stand alone.

Party Information

Debtor(s):

Jay Johnson

Represented By
David M Reeder
James Andrew Hinds Jr
Paul R Shankman
Burton V McCullough

Defendant(s):

Richard Lapides

Represented By
Mitchell B Ludwig

Rosendo Gonzalez

Pro Se

Janis Lapides

Represented By
Mitchell B Ludwig

Joint Debtor(s):

Debra Johnson

Represented By
David M Reeder
James Andrew Hinds Jr
Paul R Shankman
Burton V McCullough

Movant(s):

Richard Lapides

Represented By
Mitchell B Ludwig

Plaintiff(s):

Jay W Johnson

Represented By
Burton V McCullough

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Debra F Johnson

Represented By

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Trustee(s):

Rosendo Gonzalez (TR)

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Cristina F Keith